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FIRM and AFFILIATE OFFICES

FREDERICK D. (RICK) HYMAN
DIRECT DIAL: +1 212 692 1063
PERSONAL FAX: +1 212 208 4521
E-MAIL: RHyman@duanemorris.com

www.duanemorris.com

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AND SRI LANKA

December 3, 2019

Via CM/ECF and Hand Delivery

The Honorable Sean H. Lane
United States Bankruptcy Court for the
Southern District of New York
One Bowling Green
Courtroom: 701
New York, NY 10004-1408

Via CM/ECF and E-mail

Jeffrey A. Rosenthal, Esquire
Lisa M. Schweitzer, Esquire
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006

Re: BSG Resources Limited (in administration); Case No.: 19-11845 (SHL)

Dear Judge Lane and Counsel:

We write on behalf of William Callewaert and Malcolm Cohen, in their capacity as Joint Administrators and Foreign Representatives (together, the “Joint Administrators”) for the debtor BSG Resources Limited (in administration) (“BSGR”). This letter confirms that the Joint Administrators have substantially completed their production of documents responsive to document requests (the “Vale Document Requests”) served by Vale S.A. (“Vale”). As anticipated, the Joint Administrators are in the process of completing a few discrete discovery tasks relating to the production. This letter also provides an update as to these on-going efforts.

I. Completed Production

To date, the Joint Administrators have produced at least 15,276 documents (112,892 pages) in response to the Vale Document Requests. The number of documents provided in response to each individual Document Request is shown on **Schedule A** annexed hereto. The produced materials respond sufficiently to each of the Vale Documents Requests and satisfy the Joint Administrators’ obligations under the applicable discovery rules.

In particular, since October 3, 2019, the Joint Administrators have completed the following production to Vale:

DUANE MORRIS LLP

1540 BROADWAY NEW YORK, NY 10036-4086

PHONE: +1 212 692 1000 FAX: +1 212 692 1020

December 3, 2019

Page 2

October 10, 2019 – JA0001473 to JA0006734 (836 documents; 5,262 pages) including, but not limited to, documents responsive to Document Request Nos. 1, 2, 3, 5, 10, 11, 14, 57, 58, 59, 60;

October 12, 2019 – JA0006735 to JA0008578 (189 documents; 1,844 pages) including, but not limited to, documents responsive to Document Request Nos. 1, 10 and 11;

October 16, 2019 – JA0008579 to JA0009054 (392 documents; 5,476 pages) including, but not limited to, documents responsive to Document Request No. 64;

October 18, 2019 – JA0009055 to JA0009572 (150 documents; 518 pages) including, but not limited to, documents responsive to Document Request Nos. 2, 3 and 5;

October 23, 2019 – JA0009573 to JA0011860 (554 documents; 2,288 pages) including, but not limited to, documents responsive to Document Request Nos. 2, 3, 9, 57, 59 and 60;

October 26, 2019 – JA0011861 to JA0018771 (1,294 documents; 6,618 pages) including, but not limited to, documents responsive to multiple Documents Requests;

November 1, 2019 – JA0018772 to JA0021685 (393 documents; 2,179 pages) including, but not limited to, documents responsive to multiple Documents Requests;

November 8, 2019 – JA0021686 to JA0024020 (542 documents; 2,181 pages) including, but not limited to, documents responsive to Documents Request Nos. 6, 7, 8, 32, 33, 34 and 51;

November 15, 2019 – JA0024021 to JA0032962 (863 documents; 8,685 pages) including, but not limited to, documents responsive to Documents Request Nos. 1, 7, 8, 26, 33, 42, 43, 44, 45, 46, 47, 48, 49 and 50;

November 22, 2019 – BS0000001 to BS0000047 (14 documents; 47 pages) obtained from Beny Steinmetz and potentially responsive to Document Requests Nos. 1, 4, 34, 35, and 57;¹

November 25, 2019 – JA0032963 to JA0050286 (1,395 documents; 17,324 pages) including, but not limited to, documents responsive to Documents Request Nos. 1, 6-8, 12, 19, 20, 21, 24, 26, 28, 30-34, 36-52, 57, 59, 60, 66 and 67;

¹ As explained during the conference between the parties on November 19, 2019, the Joint Administrators do not believe the documents obtained from Beny Steinmetz are relevant to the matters to be determined at the Recognition Hearing, including the Company's COMI, and are, at best, very indirectly responsive to the Vale Document Requests. However, the Joint Administrators are producing these documents in good faith, without waiver of any objections, and reserving all right in connection with the production (or non-production) of any other or future documents.

December 3, 2019

Page 3

November 28, 2019 – JA0050287 to JA0071595 (2,770 documents; 21,309 pages) including, but not limited to, documents responsive to Documents Request Nos. 1-4, 6-8, 10, 16-22, 24, 26, 28, 31-33, 36-44, 51, 52, 57, 58, 59 and 60;

November 29, 2019 – JA0071596 to JA0084656 (2,192 documents; 13,061 pages) including, but not limited to, documents responsive to Documents Request Nos. 2, 3, 5, 7, 8, 12, 20, 21, 28, 30, 33, 36-53, 57-60, and 65-67; and

December 2, 2019 – JA0084657 to JA0115177 (3,996 documents; 30,303 pages) including, but not limited to, documents responsive to Documents Request Nos. 1, 2, 3, 6, 7-8, 9, 19, 20-21, 30, 31, 32, 33, 36-37, 42-44, 45-50, 51, 52, 53, 58, 59, and 66-67.

II. Summary of Document Review

On August 27, 2019, the Joint Administrators submitted a letter to the Court outlining their process for gathering documents responsive to the Vale Document Requests. *See* Docket No. 45 (the “August 27 Letter”). The Joint Administrators and their counsel collected, reviewed, and produced documents consistent with the process described in the August 27 Letter (“Phase I”). In addition, the Joint Administrators identified additional data sources in the possession, custody and control of the Joint Administrators and/or BSGR not listed in the August 27 Letter (the “Supplemental Potential Data Sources”).² The Joint Administrators gathered and processed information from the Supplemental Potential Data Sources and produced responsive, non-privileged material on a rolling basis (“Phase II”).

The following information provides an overview of the Joint Administrators’ document collection, review and production efforts for both Phase I and Phase II.³

- Population of all documents collected from data source locations: **3,796,598**
- Number of documents identified as potentially responsive as a result of key word searches and reviewed for responsiveness: **92,254** (including families)⁴

² The Joint Administrators gathered and reviewed documents from two Supplemental Potential Data Sources: (i) the books and records of Octea held on a secure web based platform called Sharepoint (the “Octea Sharepoint”), which is administered by a third party IT provider, and (ii) the file server maintained by BDO Guernsey (the “BDO Guernsey Server”). Both of these Supplemental Potential Data Sources were identified during the process of reviewing documents collected from the originally-identified data sources.

³ These figures do not account for duplicates or the adjustment for documents included in family groups which may eliminate redundant or duplicate documents. They are also subject to real-time adjustment as the review and production efforts are proceeding in earnest.

⁴ This figure is the number of times that any document, plus family, is responsive to a search for any document request.

December 3, 2019

Page 4

- Upon initial responsiveness review by request, number of responsive documents: **41,209** (including families)⁵
- Upon review by counsel and the Joint Administrators, number of documents identified as responsive: **16,717 documents, or 17,543 documents including families**
- Number of documents produced to date: Joint Administrators - **15,276**; B. Steinmetz - **14**
- Number of documents identified but withheld based on privilege: **2,267**

III. Supplemental Production Efforts

The Joint Administrators are in the process of completing three discrete, supplemental production tasks relating to the Vale Document Requests.

First, the Joint Administrators have identified approximately 480 foreign language documents that may be responsive to the Vale Document Requests. The Joint Administrators are in the process of translating these documents. Once translated, the Joint Administrators must review and process these documents for responsiveness, GDPR and privilege before any responsive, non-privileged documents can be produced. The Joint Administrators anticipate that these documents will be translated on or before December 16, 2019 and, at that time, they will be able to estimate a date by which review and production of these documents may be complete.

Second, the Joint Administrators determined that approximately 500 documents require further review. In most instances, these documents are privileged and the further review is required to confirm the same so that such document is not improperly withheld. In some instances, the document is likely not responsive to any Document Request but likewise requires further review to confirm that such document need not be produced. That review is underway and the Joint Administrators anticipate it will be complete on or before December 20, 2019. Once complete, the Joint Administrators will produce responsive, non-privileged documents.

Finally, the Joint Administrators are in the process of finalizing their review of certain documents obtained from the Octea Sharepoint. While materials gathered from the Supplemental Potential Data Sources (which include the Octea Sharepoint) are not subject to the December 2, 2019 target production deadline, the Joint Administrators have already produced the majority of

⁵ This figure is the number of times that any document, plus family, has been reviewed and coded as responsive to any document request.

December 3, 2019

Page 5

the responsive, non-privileged documents obtained therefrom. The Joint Administrators anticipate that the balance of these materials will be produced on or before December 20, 2019.⁶

IV. Third-Party Documents

As of October 17, 2019, the Joint Administrators have requested in writing (by courier and e-mail) that the following individuals or entities provide to the Joint Administrators any documents responsive to the Document Requests that such individual or entity maintains or possess: (i) Beny Steinmetz (directly and through Marc Bonnant), (ii) Dag Cramer (individually and on behalf of Onyx), (iii) David Clark, (iv) David Trafford, (v) Gustaf Bodin, (vi) Peter Driver, (vii) Asher Avidan, (viii) Nysco Management, (ix) The Balda Foundation, (x) Marc Struik, (xi) Yossie Tchelet and (xii) Sandra Merloni-Horemans.

The Joint Administrators have received responses to these requests, summarized as follows:

- *Beny Steinmetz*. On October 24, 2019, counsel to the Joint Administrators received a letter from Marc Bonnant advising that he only represents Mr. Steinmetz in respect of proceedings in Geneva and had no capacity to receive our letter. Thereafter, counsel to the Joint Administrators obtained an address that is purportedly Mr. Steinmetz' personal address and sent a renewed request for documents. Mr. Steinmetz has since confirmed receipt of email and responded that he will work to supply the materials "in a short time I hope." Counsel to the Joint Administrators were contacted by Eliyahu Sabag, a consultant for Mr. Steinmetz, who provided some documents. Mr. Sabag further advised that other documents maintained by Mr. Steinmetz are subject to attorney-client privilege. On November 21, 2019, counsel to the Joint Administrators sent a further request to Mr. Steinmetz (directly and through Mr. Sabag) for any other responsive documents in his possession, particularly including any documents concerning Request Nos. 45-50 (re: Niron and the ICSID settlement), and for a log of responsive documents being withheld on privilege grounds.

The Joint Administrators and their counsel have reviewed the documents provided by Mr. Steinmetz and determined that they are largely not responsive to any particular Document Request. Nevertheless, and in the spirit of transparency and a good faith effort to comply with the Court's instruction, the Joint Administrators have produced copies of these documents. *See* n.1, *infra*.

On November 25, 2019, Mr. Sabag provided additional documents on behalf of Mr. Steinmetz. Mr. Sabag also provided a table listing documents that are subject to

⁶ As the review process is fluid, the Joint Administrators reserve the right to adjust these targets and seek further extension of any anticipated or stated completion date.

December 3, 2019

Page 6

privilege and, accordingly, have been withheld by Mr. Steinmetz. Finally, Mr. Sabag advised that the review of Mr. Steinmetz's documents is complete. The Joint Administrators are in the process of reviewing these additional materials and expect to produce any responsive, non-privileged documents by December 9, 2019.

- *David Trafford*. On October 20, 2019, counsel to the Joint Administrators received an email from David Trafford advising that Mr. Trafford received and read the document request and that he does not have any Company documents in his possession. Mr. Trafford further advised that any Company-related correspondence he had was conducted through his BSGR email account.
- *David Clark*. On October 15, 2019, counsel to the Joint Administrators received an email from David Clark advising, among other things, that he resigned as director of the Company in April 2014. Mr. Clark further advised that he had searched his personal records and has no records of BSGR that need to be disclosed. Finally, Mr. Clark advised that the only documents he has related to his personal involvement in the arbitration matters and were with two law firms (and are therefore privileged).
- *Gustaf Bodin*. On October 21, 2019, the Joint Administrators received a letter from Gustaf Bodin advising that all BSGR documents that he maintained were returned by him via email and courier to Peter Driver and were then destroyed by him and not stored on his server. The Joint Administrators' counsel replied by copy to Mr. Driver asking that his search for responsive documents include anything received from Mr. Bodin. On October 25, 2019, Mr. Driver advised Joint Administrators' counsel that all documents received from Mr. Bodin were scanned and saved on the BSGR servers.
- *Yossie Tchelet*. On October 21, 2019, the Joint Administrators received an email from Yossie Tchelet advising that he has copies of BSGR electronic files but, to the best of his knowledge, they are copies of original files located on BSGR servers. Mr. Tchelet questioned the extent of his obligation to produce these documents and further explained that he does not believe it is his role to sort them. The Joint Administrators' counsel replied explaining that the Discovery Order does not govern Mr. Tchelet but rather the Joint Administrators, and again requested that Mr. Tchelet produce documents. On October 24, Mr. Tchelet responded that he is willing to provide hard drives and USB sticks which would contain his BSGR files. The Joint Administrators are trying to make arrangements to collect these materials from Mr. Tchelet in Israel but have not yet be able to do so. Counsel for the Joint Administrators have been advised that Mr. Tchelet's residence is in the vicinity of recent rocket attacks, making access difficult.

December 3, 2019

Page 7

- *Peter Driver*. On October 25, 2019, Mr. Driver advised Joint Administrators' counsel that, to the best of his knowledge, all documents requested of him are stored on BSGR servers or have been emailed to them. Mr. Driver further stated that he has no separate electronic or hard copy documents.
- *Dag Cramer*. On October 30, 2019, Mr. Cramer advised Joint Administrators' counsel that he will provide requested documents. He has not provided any documents to date. On November 21, 2019, counsel to the Joint Administrators sent a follow-up correspondence to Mr. Cramer to inquire as to the status of his production and to confirm whether he will be providing documents on behalf of Onyx.
- *Nysco Management*. On October 30, 2019, Joint Administrators' counsel received letter from Marc Bonnant, a director of Nysco, advising that he is checking issues of privilege and confidentiality and will respond "at the soonest possible." Neither Nysco nor Mr. Bonnant have provided any documents to date. On November 21, 2019, counsel to the Joint Administrators sent a follow-up request to Mr. Bonnant inquiring as to the status of any responsive documents.
- *Asher Avidan*. On October 28, 2019, Mr. Avidan confirmed by email to Joint Administrators' counsel that he has no responsive documents. Mr. Avidan further advised that he left BSGR in June 2016 and his email account has been blocked since.
- *Mark Struik*. On November 4, 2019, Mr. Struik advised that, among other things, he resigned from BSGR in early 2016 and that his BSGR email address was deactivated years ago. He further advised that he carefully read the 68 individual requests for information and documents and, so far, has not found any relevant data. He stated that he is continuing with his search. On November 21, 2019, counsel to the Joint Administrators sent a follow-up request to Mr. Struik inquiring as to whether, upon further review, he has been able to identify any responsive documents.
- *Sandra Merloni-Horemans*. On November 21, 2019, Ms. Merloni-Horemans advised counsel to the Joint Administrators by email that she received counsel's correspondence enclosing the Vale Document Requests. She further advised that her counsel was preparing a response. To date, the Joint Administrators have not received that response.

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December 3, 2019
Page 8

V. Conclusion

As evidenced above, the Joint Administrators' production process has proceeded in good faith and is materially complete. Of course, the Joint Administrators will supplement their production consistent with their obligations under the applicable discovery rules.

Very truly yours,

/s/ Frederick D. Hyman
Frederick D. (Rick) Hyman

December 3, 2019
Page 9

Schedule A
Documents Produced by Request

| Request | Number of Documents (excluding family) |
|---------------------------|--|
| Request 01 | 323 |
| Request 02 | 143 |
| Request 03 | 2,552 |
| Request 04 | 2 |
| Request 05 | 92 |
| Request 06 | 104 |
| Request 07 08 | 904 |
| Request 09 | 41 |
| Request 10 | 97 |
| Request 11 | 180 |
| Request 12 | 3 |
| Request 16 | 26 |
| Request 17-18 | 20 |
| Request 19 | 113 |
| Request 20 21 | 144 |
| Request 22 | 9 |
| Request 23 | 40 |
| Request 24 | 125 |
| Request 26 | 79 |
| Request 28 | 186 |
| Request 29 | 17 |
| Request 30 | 58 |
| Request 31 | 173 |
| Request 32 | 119 |
| Request 33 | 849 |
| Request 34 | 149 |
| Request 35 | 52 |
| Request 36 37 | 595 |
| Request 38 39 40 41 | 690 |
| Request 42 43 44 | 904 |
| Request 45 46 47 48 49 50 | 361 |
| Request 51 | 167 |
| Request 52 | 371 |
| Request 53 | 178 |

DuaneMorris

December 3, 2019
Page 10

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|---------------|-----|
| Request 54 | 6 |
| Request 56 | 4 |
| Request 57 | 140 |
| Request 58 | 95 |
| Request 59 | 471 |
| Request 60 | 29 |
| Request 61 | 1 |
| Request 63 | 3 |
| Request 64 | 363 |
| Request 65 | 2 |
| Request 66 67 | 73 |